



U.S. Department of Justice

EPA Region 5 Records Ctr.



275643

Environment and Natural Resources Division

Environmental Enforcement Section

P.O. Box 7611

Telephone: (202) 514-4213

Washington, D.C. 20044-7611

Facsimile: (202) 616-6584

BSG:AML

DJ No. 90-11-3-1620/2

June 26, 2002

VIA TELECOPY AND REGULAR MAIL

Jonathon Conte, Esq.
Blank Rome Comisky & McCauley LLP
PNC Center
201 E. Fifth St., Suite 1700
Cincinnati, OH 45202

Re: United States v. Aeronca, Inc. et al.
Civil Action No. 1:01 CV 00439
Confidentiality Claim

Dear Jonathon:

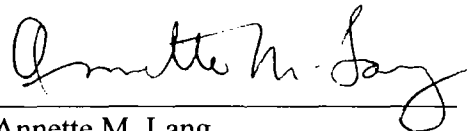
During the deposition of William Blevins, the United States introduced documents containing the identities of the customers of Clarke's Incinerators when Clarke's Incinerators was sold to Mid-American Waste in 1987. The United States had possession of that list because your client furnished it in response to an EPA request under Section 104(e) of CERCLA. During the Blevins' deposition, you requested that the customer list and the portion of the deposition dealing with questions regarding the customer list be kept confidential and sealed. You asserted a claim of confidentiality regarding the list. I noted for the record that I reserved my right to review your client's claim of confidentiality, but that, in order to keep the deposition moving, I would conditionally agree to keep the list and the portion of the transcript dealing with questions regarding the list confidential.

I have reviewed your client's claim of confidentiality at this time because I intend to use the customer list in deposing Mr. Schindler tomorrow. Your client did not make any claim of confidentiality when he submitted the customer list to EPA. Additionally, none of the documents were stamped "confidential." Moreover, EPA, in its 104(e) request, specifically advised your client of the steps it/he needed to take in order to assert a claim of confidentiality. EPA could not have been more clear.

Because your client did not assert a claim of confidentiality in providing the documents to EPA over one year ago, and because your client had the burden of establishing confidentiality,

I am hereby notifying you that I will not treat the customer list as confidential tomorrow. Moreover, with this letter, I am notifying you that I will not continue to agree to the confidentiality of the list and the related portions of the Blevins' testimony.

Sincerely,

A handwritten signature in cursive script, reading "Annette M. Lang". The signature is written in dark ink and is positioned above a horizontal line.

Annette M. Lang
Trial Attorney

cc: Skinner Service List